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October 14, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: *Protecting the Privacy of Customers of Broadband and Other
Telecommunications Services, WC Docket No. 16-106***

Dear Ms. Dortch:

On October 12, 2016, Frank Buono and Rudy Brioché of Comcast Corporation, Jennifer Prime of Cox Enterprises, Loretta Polk and Jennifer McKee of NCTA - The Internet & Television Association (NCTA), and Christopher Harvie of Mintz Levin met with Amy Bender, legal adviser to Commissioner Michael O’Rielly, to discuss the Commission’s broadband privacy proceeding.

We discussed the need to harmonize the FCC’s broadband privacy rules with the Federal Trade Commission’s (FTC) privacy framework, particularly with regard to the scope and definition of sensitive information. Consistent with comments filed by NCTA and Comcast, we also discussed the value of adopting an implied consent approach for first-party marketing and advertising activities by Internet Service Providers (ISPs) that parallels the FTC framework.^{1/} We also highlighted that adopting such an approach to first-party marketing would reflect previous determinations by the Commission in connection with the voice customer proprietary network information (CPNI) rules with regard to using customer data for such internal business and operational purposes as improving network performance, quality of service, and customer satisfaction.^{2/}

^{1/} NCTA Comments at 72-74; Comcast Comments at 46-47; Comcast Reply Comments at 30-31. *See also Protecting Consumer Privacy in an Era of Rapid Change*, FEDERAL TRADE COMMISSION, at 40 (2012) (“[M]ost first-party marketing practices are consistent with the consumer’s relationship with the business and thus do not necessitate consumer choice”) (“FTC Privacy Report”); The White House, *Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy*, at 17 (2012).

^{2/} *In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information*, 28 FCC Rcd 9609, ¶ 33 (2013) (Noting that carriers may use data analytics tools in order to improve network performance and customer service “without the customer’s specific approval”). *See also* Letter from William H. Johnson, Verizon, to Marlene Dortch, Secretary, FCC, WC Docket No. 16-106, September 29, 2016.

During the meeting, we also expressed support for the three-part standard employed by the FTC for de-identification of information^{3/} and also questioned whether there is an adequate basis for categorically treating all uses of IP addresses and other persistent identifiers as CPNI or personally identifiable information.^{4/} In addition, we noted the importance of ensuring that the rules permit the use or disclosure of CPNI or PII in connection with monitoring networks for cybersecurity purposes and sharing cyber threat indicators as permitted under the Cybersecurity Information Sharing Act (CISA).

If you have any questions, please contact the undersigned.

Respectfully submitted,

/s/ Loretta Polk

Loretta Polk
Vice President & Associate General Counsel
NCTA – The Internet & Television
Association

cc: Amy Bender

^{3/} See FTC Report at 21. See also FTC Comments at 9 (Scope of FCC’s rules should “only include information that is ‘reasonably’ linkable to an individual” and stating that an unqualified linkable standard “could unnecessarily limit the use of data that does not pose a risk to consumers”); Letter from Jules Polonetsky, CEO, Future of Privacy Forum, to Marlene Dortch, Secretary, FCC, WC Docket No. 16-106, September 12, 2016).

^{4/} See, e.g., NCTA Comments at 21-23; Comcast Comments at 77-81.